Jeopardy in the Courtroom: A Scientific Analysis of Children's Testimony, by Stephen J. Ceci and Maggie Bruck (Washington, DC: American Psychological Association, 1995), 336 pp., $29.95, APA members/affiliates $24.95.

REVIEWED BY
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Stephen J. Ceci and Maggie Bruck are much-honored academic researchers in the field of children's testimony. Their work is widely publicized and acclaimed in the scientific community. Stephen J. Ceci is the Helen L. Carr Professor of Psychology at Cornell University. Maggie Bruck is an associate professor of psychology and of pediatrics at McGill University. They both contributed to the amicus brief presented by the Committee of Concerned Social Scientists in the case of *New Jersey v. Margaret Kelly Michaels.* In 1994 they were awarded the Robert Chin Prize by the Society for the Psychological Study of Social Issues for the best article dealing with child abuse, one of the 20 outstanding articles of the year named in *Child Psychiatry and Child Development. Jeopardy in the Courtroom* merits a thorough review because the renown of its authors guarantees that it will be widely disseminated and become an authoritative source as well as a commercial success.

Jeopardy is aimed at a broad audience that includes mental health professionals, legal professionals, and children's caretakers. It claims to "distill from the vast corpus of scientific research that part which is most relevant for evaluating and understanding children's statements that are made in the legal arena" about sexual abuse (p. *ix*). Its thesis is that sex abuse investigations are vulnerable to contamination by poor interviewing techniques that make children's testimony about sexual abuse unreliable.

The book is organized into 18 short chapters ranging from six to 26 pages each. It begins with seven case descriptions. It then addresses social and scientific issues in the field. It

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considers the scope and characteristics of child sexual abuse, defines memory and suggestibility, and reviews past and present legal and behavioral approaches to children's suggestibility. It is easy to read, with large type, considerable white space, and headings in capitals that are set off and easy to scan. It has a good index that facilitates its use as a reference book. The writing is lively, with a readily comprehensible vocabulary that is as free of jargon as possible. The entire format is designed to make its contents readily accessible to a reader with a basic familiarity with mental health and legal issues.

Jeopardy's greatest value is as a primer for bad interviewing techniques. Attorneys, judges, law guardians, social workers, psychologists, psychiatrists, law enforcement officers, and people who claim that interviewers have led children to make false allegations against them can readily use this book as a reference to decide whether any of the particular techniques that increase children's suggestibility were used. Chapters on interview bias, repeated questioning, and stereotype induction are particularly helpful. A chapter on other suggestive interviewing techniques that briefly addresses peer influences and the effects of high-status adults on suggestibility is also informative.

Unfortunately this is a biased book and, even worse, a deliberately biased book. The authors say:

> At the outset, we wish to acknowledge some of the biases in this book. These biases become immediately evident in our selection of the seven actual cases presented. . . . In six of these cases, there are reasons to be skeptical about the reliability of the children's reports. Why do we focus disproportionately on cases where children's testimony is questionable? Is it because we believe that in the vast majority of cases in which children testify, their testimony is tainted? Our answer to this question is a resounding *no*. . . . We have chosen to emphasize the not-so-obvious negative dimensions of children's testimony as a means of increasing the awareness of all actors in the civil and criminal justice systems. . . . It is our contention that the [weaknesses in children's testimony] are less

well understood by experts and non-experts, whereas excellent texts already exist that describe children's strengths. . . . (p. *x*)

The authors' acknowledgement of bias is buried in the preface, where it is unlikely to be discovered by any but the most careful reader. It is especially likely to be overlooked because the format favors it. There is no subheading, no bold or outsize type, no capitalization, and no reference in the index to call attention to it. These editorial mechanisms are used extensively throughout the book, but only for the purpose of directing the reader's attention to the weaknesses in children's testimony. As a result, their weaknesses cannot readily be put in the context of their strengths, creating the impression that children typically are unreliable witnesses.

A similar situation, of providing disclaimers while burying them so that they are easy to overlook, exists within the body of the book. The authors provide two caveats for their analysis. First they say, "The materials we have reviewed may not be representative of many of the interviews carried out with children in forensic or therapeutic situations" (p. 82). They go on to explain that the interviews that come to their attention are those that appear suggestive. Indeed. Experts in the field know that Ceci and Bruck, along with other researchers such as Elizabeth Loftus, have taken one side of a highly politicized debate, the side that serves the accused. Clearly defense attorneys know this too. It is an understatement at best to say that their materials "may not" be representative. They most certainly are not representative.

Their second caveat is that their "descriptions are not based on a quantitative analysis of all of the interviews we have reviewed." Their data are "descriptive," and they did not count "the number of times that each type of element occurs in an interview" (p. 82). This is more than a "caveat." It is a basic violation of scientific procedure. There is a very good reason why the scientific method requires that each element be counted: Counting ensures objectivity. "Descriptive" data

allow ample room for the evaluators to select and emphasize the results that confirm their biases. As scientists, Ceci and Bruck know this. They choose not to count anyway.

Of course it is important to recognize poor interviewing techniques. Of course they exist. But by not counting the number of times they occur; by preselecting cases to make sure they exemplify such techniques, and sometimes egregiously so; and by allowing them to be dramatically presented while burying any opposing data in the psychological equivalent of small print, the authors create the impression that use of such techniques is widespread, if not the norm.

The writers' disclaimers, caveats, waivers and the like are clearly authorial strategies that allow Ceci and Bruck to lay claim to scientific responsibility in the very act of violating it. This book is a polemical treatise that cloaks an adversarial stance in the garb of scientific discourse. Their rationale that there are already "excellent texts" describing children's strengths appears weak at best and disingenuous at worst. The books to which they refer, written by John Myers, are excellent scientific treatises by a well-respected expert, but they are far less likely to reach the popular audience than is *Jeopardy* and therefore are unlikely to have a similar impact on public awareness or the legal consciousness. Many of the professional readers and most of the lay readers of this book will not recognize its biases and will be misled because they trust the scientific prestige of the authors.

The interviews analyzed in *Jeopardy* can be best described as containing intimidating interview techniques that pressure, frighten, and/or mislead children into making false statements. *Jeopardy* does its readers a service in calling attention to such techniques and the risks they entail. Unfortunately, this is insufficient for understanding the true nature of the jeopardy in the courtroom. The legal system needs to know that suggestive interviewing presents a double jeop-

ardy: It can lead to false recantations as well as to false allegations.

The legal system needs specific information that helps it balance the risks of suggestibility with the limits to suggestibility. It needs to know that intimidating interviews are not hard to detect. It needs to know that a great deal of intimidation over a long period of time is usually needed to taint children's testimony. It needs to know that isolated and infrequent or mild suggestions are unlikely to be harmful. It needs to know that there is no such thing as a perfect interview. It needs to know that some of the techniques intended to minimize suggestive interviewing—e.g., giving children permission to say "I don't know"—actually encourage children to withhold information. It needs to know that being "nice" to children—encouraging them, praising them, offering juice, and so on—helps them give accurate testimony.

In addition to the general point that most children, even preschoolers, can and typically do give accurate testimony (which Ceci and Bruck acknowledge), the legal system needs to be informed about the specific characteristics of children's memory, cognition, and personality that affect their suggestibility. It needs to know that suggestive interviewing may affect children's statements but not their memories; however, the actual memory may be very hard to elicit if they stick by their false statements—a dangerous outcome that is likely to occur if they have been intimidated into making either a false allegation or a false recantation. It needs to know that suggestions may not work when children know more about the topic than the interviewer. It needs to know that children are not equally likely to be suggestible. It needs criteria to identify those children who are more likely to be suggestible.

There is a substantial and growing body of scientific research on all of these topics. None of it is even mentioned in *Jeopardy*. *Jeopardy* promises to distill the "most relevant" research for understanding children's suggestibility in the

courtroom. In this, it fails dismally. By minimizing the complexity of suggestibility, *Jeopardy* fails the needs of the defense as well as the needs of the prosecution. All it does is set the defense up for a powerful rebuttal by experts who know the full scope of the literature. Despite its claims to be a "scientific analysis," it is not. Biased science serves no one.